IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

WP(C).No. 15753 of 2007(A)

PETITIONER:

KOTTUNGAL THOMAS,
S/O.CHERIYAN, AGED 55 YEARS,
PULINGOME AMSOM DESOM, KOZHICHAL P.O.,
KANNUR DISTRICT.

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENTS:

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1. THE SPECIAL SALE OFFICER,
THALIPARAMBA PRIMARY CO-OPERATIVE AGRICULTURAL DEVELOPMENT BANK NO.C-1007, PAYYANNOOR P.O.

2. THALIPARAMBA PRIMARY CO-OPERATIVE AGRICULTURAL DEVELOPMENT BANK NO.C- 1007, PAYYANNOOR P.O., REPRESENTED BY ITS SECRETARY.

R1 BY SR. GOVT. PLEADER SRI. K.J. MOHAMMED ANZAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No.15753 of 2007

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Dated this the 28th day of May, 2007

JUDGMENT

Petitioner challenges Ext.P3 and seeks a declaration that the amount covered in E.P.8/93-94 referred to in Exts.P1 to P3 had become time barred. Petitioner availed two loans from the second respondent, one in the year 1985 and another in the year 1988-89. According to the petitioner the petitioner defaulted payment of both the loans during 1991-92, 1992-93. The Bank foreclosed both the loans and obtained an award. Case of of the petitioner against Ext.P3, which is a proclamation of sale issued under the Kerala State Co-operative Agricultural and Rural Development Bank Act, 1984, is that execution is barred by limitation having regard to the provisions contained under the Kerala Co-operative Societies Act. Reliance is placed on Sections 76 and 77 of the Act.

2. It is to be noted that proceedings are initiated against the petitioner under the provisions of Kerala State Co-operative Agricultural and Rural Development Act, 1984. Section 19 of the Act

contains a non-obstati clause. It may not be open to the petitioner to rely on Sections 76 and 77 of the Act to contend that proceedings are barred by limitation as provided in the Co-operative Societies Act. In such circumstances, I find that there is no basis to challenge the sale proclamation.

Leaving open the remedy available to the petitioner under law, the writ petition is dismissed.

(K.M. JOSEPH, JUDGE)

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